

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
February 20, 2007

**D047691      People v. Antwoine Marquise Bealer**

Affirmed. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D047708      People v. Baker**

The count 6 conviction is reversed. In all other respects, the judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D047910      People v. Lampkin**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D049688      People v. Dugan**

Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D048994      In re Robert A., a Juvenile**

The opinion filed January 25, 2007, is ordered certified for publication with the exception of part I.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
February 21, 2007

**D050215      Sharp Healthcare v. Superior Court of San Diego County/Ryles**  
The petition is denied.

**D049736      In re Christman on Habeas Corpus**  
The petition is denied.

**D048635      In re Kellen V., a Juvenile**  
The petition for rehearing is denied.

**D048505      People v. Martinez**  
The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Huffman, J.

**D050254      Hemerick v. Superior Court of San Diego County/Quioque et al.**  
The petition is denied.

**D049233      In re Delila S., a Juvenile**  
The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D048764      In re Courtney P. et al., Juveniles**  
The order denying Courtney and A.P.'s section 388 petition with respect to placement of the three younger sisters, Angel, Alexandria and A.W., with their aunt Marla is reversed, and the judgments terminating parental rights as to them are vacated pending resolution of Courtney and A.P.'s section 388 petition. The case is remanded to the juvenile court with directions that the court, in accordance with the views expressed in this opinion, reconsider the section 388 petition with respect only to placement of all five children with Marla. The court shall immediately direct Agency to evaluate Marla's home for placement of the five children in an expeditious manner and to commence an adoptive home study evaluation. On receipt of Agency's home placement evaluation, the court shall conduct a new hearing on Courtney and A.P.'s section 388 petition as it relates to placement of the younger children with Marla.

Angel, Alexandria and A.W. are to remain in their current placements while Agency conducts the placement evaluation. Even if the court finds Marla's home to be an appropriate placement for all five children as a result of the new section 388 petition hearing, the court shall not grant the section 388 petition and remove Angel, Alexandria and A.W. from their current placements unless the court is confident that placement with Marla will lead to adoption of the three younger sisters by Marla.

After the court rules on the section 388 petition, the judgments terminating parental rights shall be reinstated. Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
February 21, 2007 (Continued)

**D049298      San Diego Gas & Electric Company v. Superior Court of San Diego County/Harris et al.**

The published opinion filed on January 25, 2007 is modified. The petition for rehearing is denied. The disposition is changed to reflect the above changes.

**D047924      Chapman v. California State Personnel Board/The Board of Trustees of California**

The petition for rehearing is denied.

**D049678      In re Rodriguez on Habeas Corpus**

The petition is denied.

**D046299      La Mesa Citizens for a clean environment v. City Council of the City of La Mesa et al.**

The judgment is reversed with directions that the superior court grant La Mesa Citizens for a Clean Environment's petition and issue a peremptory writ of mandate ordering the City of La Mesa to vacate its approval of zoning ordinance amendment ZOA 03-02 (Mixed-Use Overlay Zone and Design Guidelines for Mixed Use) and negative declaration and to cause and environmental impact report to be prepared. Appellant shall recover its costs on appeal. O'Rourke, J. We Concur: Nares, Acting P.J., Irion, J.

**D050183      Alisa P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Alisa P. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D050093      Marlon E. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Marlon E. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D049312      McHale v. Iorio**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D050121      In re Marriage of Patricia A. and Lyle J. Daniel**

Pursuant to California Rules of Court, rule 8.140, the appeal filed January 5, 2007, is dismissed for appellant's failure to timely designate the record.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
February 21, 2007 (Continued)

**D050279      Rubino v. Superior Court of San Diego County/The People**  
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
February 22, 2007

**D048126      In re the Marriage of Talerman**

That portion of the trial court's January 12, 2006 order directing Abraham to pay Sarah's attorney fees is reversed and remanded to the trial court to make the determinations required under sections 2030 and 2032. The order is otherwise affirmed. The parties are to bear their own costs on appeal. Aaron, J.; We Concur: Nares, Acting P.J., Haller, J.

**D050141      Cheyla E. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Trevon T. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed. The case as to Trevon T. is dismissed.

**D049475      Tyler H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. The request for stay is denied.

**D048248      People v. Weaver**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D049267      In re Joshua B. et al., Juveniles**

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Irion, J.

**D048889      Pomicpic et al. v. Allison et al.**

**Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is DISMISSED.**

**D050324      Stretton v. Peters et al.**

Appellant Diane Gail Stretton's request for judicial notice is granted. Appellant's application for an order permitting the filing of an appeal received on February 13, 2007, is denied. (Code Civ. Proc. section 391.7, subd. (b).) The appeal served on the Superior Court on or about April 16, 2006 (as to the February 1, 2006 judgment), and on or about February 13, 2007 (as to the order entered on December 15, 2006), is dismissed.

**D050328      Applegate v. Superior Court of San Diego County/Applegate**

The petition is denied.

**D050141      Cheyla E. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Cheyla E. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

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February 22, 2007 (Continued)

**D050123      Sally S. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

The attorney for petitioner Sally S. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

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**D048931      People v. Jankowicz**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D048675      People v. Bell**

The judgment is affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., Irion, J.

**D049595      Guzzetta v. City of Desert Hot Springs et al.**

Affirmed. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D048796      People v. Edison**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D049596      People v. Meyers**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Nares, J.

**D048074      Houlihan as Trustee etc. et al. v. Evans**

The default judgment and entry of default against Evans are vacated as void. The trial court is directed to reinstate the answer that Evans filed on November 30, 2005. Irion, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D050005      Stretton v. Freeburn**

The matter having been considered by Presiding Justice McConnell and Associate Justices Benke and McIntyre, the court rules as follows: Appellant Diane Gail Stretton's request for judicial notice in support of her letter brief dated February 16, 2007 is GRANTED as to the June 15, 2006 dismissal order and the clerk's letter attached as Exhibit Z to her previous request for judicial notice filed on December 19, 2006. The request for judicial notice is otherwise DENIED on the ground judicial notice is unnecessary because the subject documents are already before the court as filings in this appeal. Appellant's request for accommodations under California Rules of Court, rule 1.100 is DENIED. The appeal is DISMISSED as untimely.

**D047107      City of Encinitas v. F Street Corporation**

The request for publication of the opinion is denied.

**D048117      Eberle v. Department of Motor Vehicles**

The judgment is affirmed. Costs of appeal are awarded to Eberle. Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D049597      People v. Shattuck**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

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**D049588      People v. Cruz**

The judgment is affirmed as to count 1 (Vargas murder) and reversed as to count 3 (Sanchez murder). Haller, J.; We Concur: McConnell, P.J., McIntyre, J.

**D048815      Rufino v. Escondido Union School District**

On November 29, 2006, appellant notified this court that the matter has settled. Because appellant has not filed a request to dismiss or a letter stating good cause why the appeal should not be dismissed, the court orders the appeal dismissed and each side to bear its own costs on appeal. (Cal. Rules of Court, rule 8.244(a)(4)).

**D050236      In re Conservatorship of Hazel Letourneau**

Because appellant did not timely pay the filing fee or deposit costs for preparing the record on appeal, the appeal is dismissed. (Cal. Rules of Court, rule 8.140(b) and rule 8.100(c)(5)).